

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT**BENEFITS**

VACATION: Paid vacations are not required under California law. If an employer has an oral or written vacation policy, such vacation benefits are considered wages and are earned by the employee on a pro rata basis for each day of work. Because vacation is a form of deferred wages and vests as it is earned, vacation wages cannot be forfeited. (*Suastez v. Plastic Dress Up* (1982) 31 Cal.3d 774) An employer can place a reasonable cap on vacation benefits that prevents an employee from earning vacation over a certain amount of hours. (*Boothby v. Atlas Mechanical* (1992) 6 Cal.App.4th 1595). Where an employee terminates his or her employment, all vacation earned but not yet taken must be paid at the time of termination. (Labor Code §227.3). If employees are subject to a collective bargaining agreement, the provisions pertaining to vacation benefits in the collective bargaining agreement will apply. (Labor Code §227.3)

SICK PAY: There is no legal requirement under California law for employers to provide paid sick leave. Employees should refer to their employer's policy with respect to paid sick leave. However, most employers participate in the State Disability Insurance Plan (SDI), which they pay for through payroll deductions. (Unemployment Insurance Code §2601, *et seq.*) Employers are required to give newly hired employees and employees leaving work due to pregnancy or non-occupational sickness or injury a copy of a notice of their disability insurance rights and benefits due to sickness, injury or pregnancy. (Unemployment Insurance Code §2613) Additional information concerning disability insurance can be obtained from your local office of the Employment Development Department. (EDD)

If an employer has a sick leave policy, the employer must permit an employee to use in any calendar year, the employee's accrued and available sick leave, in an amount not less than the sick leave that would be accrued during 6 months at the current employee's current rate of sick leave, to attend to an illness of a child, parents, or spouse of the employee. (Labor Code §233)

WORKERS' COMPENSATION INSURANCE: All employers, except the state, are required to have workers' compensation insurance to cover injuries or illnesses sustained on the job. (Labor Code §3700, *et seq.*) An employee who suffers a work-related injury or illness that requires medical treatment beyond first aid must notify his or her employer in writing within 30 days of the injury or illness. (Labor Code §5401) Contact the Division of Workers' Compensation for more information regarding workers' compensation claims and benefits.

HOLIDAYS: California law does not require that employers provide employees with paid holidays. Employees should refer to their employer's policy with respect to paid holidays.

MEDICAL AND/OR LIFE INSURANCE: There is no requirement under California law for employers to provide employees with medical and/or life insurance. Employees should refer to their employer's policy with respect to medical and life insurance benefits. An employer who provides employee medical benefits and discontinues those benefits must provide employees with written notice at least 15 days in advance of the discontinuance of coverage. (Labor Code §2806) Any health benefits provided by an employer pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, *et seq.* (ERISA), are subject to the federal law. Contact the U.S. Department of Labor.

PENSION PLANS: Employee pension plans are not required under California law. Employees should refer to their employers' policy with respect to pension plans. Any pension plans provided by an employer pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, *et seq.* (ERISA), are subject to federal law. Contact the U.S. Department of Labor.

SEVERANCE PAY: There is no legal requirement under California law that employers provide severance pay to an employee upon termination of employment. Employees should refer to their employer's policy with respect to severance pay. Severance pay plans provided by an employer pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 *et seq.* (ERISA), are subject to federal law. Contact the U.S. Department of Labor. In certain limited situations, California laws may apply. However, a thorough review of the facts must be made before a determination can be made.